IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.25589 of 2005

Between:

Messrs Sujana Constructions, Rep. By its Managing Partner, Sri R.R.Ram Mohan Rao, S/o.Papa rao, Aged 52 years, R/o.1-10-149, Ashoknagar, Hyderabad.

..... PETITIONER

AND

1.The Executive Engineer,

Roads & Buildings, National Highways,

Warangal, Warangal District, and 4 others.

.....RESPONDENTS

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki,)***

The grievance of the petitioner is that although he had an agreement with the respondents that sales tax shall be deducted at 2% percent of turn over, but they have deducted 4%.

The respondents claim that there was change in Law, and in terms of the Section 68 of the Andhra Pradesh Value Added Tax Act, which became effective from 01-04-2005, 4% tax was deducted.

Since the rate of tax has been changed by the Legislature and not by respondents 1 to 3, whether this enhanced tax has to be paid by respondents 1 to 3 or the petitioner is a matter, which will have to be considered in view of the terms and conditions of the agreement entered into between the parties.

The respondents claim that in terms of Clause 10.4 of the agreement, the petitioner was bound to pay the tax and in Clause 10.5, merely the rate prevalent at the time of signing of the agreement was mentioned.

However, the learned Counsel for the petitioner submits that the petitioner had entered into the agreement on the premise that he will have to pay 2% of the turn over by way of sales tax and not 4%, therefore, he needs to be reimbursed with 2% of the amount, which has already been deducted. The learned Counsel has also stated that the Government has issued G.O.Ms.No.11 Finance (Works & Projects FB) Department, dated 29-07-2005, which gives the petitioner the benefit he claims.

These are the matters, which can be gone into by the Arbitrator, as the agreement provides for Arbitration. In this view of

the matter, before the petitioner applies for Arbitration, we also give him liberty to make a representation to respondent No.3, who may consider the matter and pass appropriate orders within a period of two weeks of making such representation.

Writ Petition is, accordingly, disposed of. No costs.

(Bilal Nazki, J)

7th March, 2006

(G.Chandraiah, J)

LUR